

V. Significant Changes Since Proposal

This U&O FIP, which is intended to address winter air quality impacts from ozone pollution, contains a common set of VOC emissions control requirements for certain existing, new, and modified oil and natural gas sources on the Indian country lands within the U&O Reservation. We consulted existing federal CAA oil and natural gas source category standards in developing the VOC emissions control requirements of this U&O FIP. To make VOC emissions control requirements across the Basin consistent, this U&O FIP goes beyond the federal standards in some cases, regulating equipment and activities that are not covered by those standards but that are regulated by the UDEQ. Such equipment and activities include small, remote glycol dehydrators; low throughput storage vessels; tank truck loading and unloading; and certain voluntarily operated control devices. Applicability of the requirements, including for equipment and activities that are regulated by the federal standards, is also consistent with the applicability for equivalent equipment and activities regulated by the UDEQ.

As previously mentioned, the streamlined construction authorization mechanism in the National O&NG FIP applies on the Indian country portions of the U&O Reservation that are part of the Uinta Basin Ozone Nonattainment Area, as a result of our recent separate action amending the National O&NG FIP. Such true minor sources are required to register and comply with the eight federal standards in the National O&NG FIP, as applicable, to meet the preconstruction permitting requirements of the Federal Indian Country Minor NSR Program. Compliance with the eight federal standards in the National O&NG FIP, as applicable, does not relieve the owners/operators from the other applicable VOC control requirements of this U&O FIP, except that this U&O FIP exempts certain equipment and activities from it that are in compliance with

the applicable requirements of the National O&NG FIP.

We have made some changes to the requirements in the U&O FIP after considering public comments and evaluating more recent emissions inventories and air quality information. More details on our evaluation of available information and reasons for these decisions are described in our summary of responses to comments in Section VI of this preamble, and in the RIA and Response to Public Comments documents for this final rule.¹⁰⁴

A. Final Rule Effective Date and Compliance Deadline

In the proposed U&O FIP, we stated that we might issue a final action based on the proposal as soon as the date of publication of a final U&O FIP. We believed that there would be “good cause,” within the meaning of 5 U.S.C. 553(d)(3), to make the final rule effective as soon as published, if that proved necessary to ensure that this rule began to provide emission reductions before the next winter ozone season. As discussed above in Section II.D., winter ozone in the Uinta Basin is a serious public health problem, which this final rule is intended to help address. In addition, the reductions provided by this rule are an integral part of the Agency’s strategy to address the air quality problem on the Indian country lands within the U&O Reservation while maintaining a permitting mechanism that allows appropriate continued oil and natural gas production. The primary other component of that strategy is a separate action to amend the National O&NG FIP to extend its geographic coverage to the Indian country portions of the U&O Reservation that are part of the Uinta Basin Ozone Nonattainment Area. Over the long term, we are relying on the VOC emissions reductions achieved through this action to ensure that the previous extension of the scope of the National O&NG FIP does not jeopardize

¹⁰⁴ These documents can be found in the docket for this rulemaking (Docket ID EPA-R08-OAR-2015-0709).

air quality.

After careful consideration of the comments received, and of the requirements under the Congressional Review Act (CRA) specifying that a major rule may become effective no earlier than 60 days after it is published in the Federal Register,¹⁰⁵ the EPA is finalizing an effective date 60 days after the final rule is published in the Federal Register.

We proposed to require compliance by oil and natural gas sources existing as of the effective date of the final rule no later than 18 months after the effective date of the final rule. We have revised that compliance period to a 12-month compliance deadline. The proposed 18-month compliance period was informed by what we had learned about the time needed for sources in Utah-regulated areas to comply with Utah's requirements for oil and natural gas sources. We had been informed by UDEQ compliance staff that the majority of existing oil and natural gas sources that had been required to install VOC emission control retrofits in UDEQ jurisdiction had completed the required retrofits within 9 months of the effective dates of their minor source approval orders, ahead of the 18-month deadline in UDEQ approval orders for operators to notify the UDEQ of the status of retrofit construction.¹⁰⁶ The UDEQ estimated that approximately 1,600 existing sources had been required to install retrofits to control emissions

¹⁰⁵ Id. at 5 U.S.C. 801(a)(3)(A). This rule is considered an economically significant rule under Executive Order 12866, as a rule that imposes costs or generates benefits of at least \$100 million per year, which is the same economic threshold applied in defining what constitutes a "major rule" under the CRA (one that "is or is likely to result in...an annual effect on the economy of \$100,000,000 or more.").

¹⁰⁶ Email correspondence with UDEQ staff regarding their source inventory and experiences regulating existing oil and natural gas sources in State of Utah jurisdiction is included in the docket for this rulemaking (Docket ID No. EPA-R08-OAR-2015-0709). UDEQ compliance staff target each new approval order for inspection within 18 months of the date it is issued. They document the status of construction at the time of inspection and note whether the permitted source has provided a notification of construction status, which is required within 18 months of the date the approval order is issued. UDEQ compliance staff have inspected hundreds of such existing oil and natural gas sources without observing any compliance issues with the 18-month notification requirement. While UDEQ compliance staff do not compile this information into any readily available summary format, details about the status of construction are included in the inspection report for each source.

from the collection of all storage vessels, glycol dehydrators, and/or pneumatic pumps on non-Indian country lands in the Uinta Basin. For the proposal, on the other hand, we estimated that there were approximately 2,100 sources on Indian country lands within the U&O Reservation that would be subject to such requirements in this U&O FIP. We considered it likely in light of this larger number of sources, and the presumably finite availability of equipment and personnel, that owners and operators would need longer than 9 months to complete the necessary retrofits to the greater number of Indian country sources. Therefore, we proposed an 18-month compliance deadline for the U&O FIP as reasonable to accommodate the challenges of procurement of equipment and labor to complete the retrofits of a larger number of sources. Using the UBEI2017-Update, we now estimate that 2,165 existing sources on the Indian country lands within the U&O Reservation will be required to install retrofits to control emissions from the collection of all storage vessels, glycol dehydrators, and pneumatic pumps under this U&O FIP, which is only slightly more than the number of existing affected sources estimated for the proposed FIP using the UBEI2014.

Although the number of estimated affected sources is still higher than the number in UDEQ jurisdiction, after considering public comments received on the proposed 18-month compliance deadline and the demonstrated need for more near-term air quality benefits to improve air quality in and around the U&O Reservation, we have revised the proposed 18-month compliance period to a 12-month compliance period from the effective date of the rule. In the EPA's judgment, this shorter compliance schedule (especially when combined with the 60-day effective date) will sufficiently accommodate the potentially limited availability of equipment and personnel, and thus still reasonably allow industry to comply with the new requirements in a

timely manner, while also ensuring that meaningful reductions will be achieved that will help make progress toward future attainment. Further, potentially affected owners and operators have been on notice of the possibility that these rules might come into effect since the proposed FIP was published in January 2020.

We also enhanced the final FIP to specify the process the EPA would take to decide requests for extension of the compliance period, in particular adding the requirement that the request be submitted before the compliance deadline, identify the specific provisions for which an extension is being requested and include an alternative compliance deadline, and provide a rationale for the request with supporting information explaining how the operator will effectively meet all applicable requirements.

B. Triennial Emissions Inventory

In the proposed FIP we contemplated establishing the due date for the submittal of annual emissions covering the first triennial inventory year 2020 as October 1, 2021, to allow operators time to set up an appropriate emissions tracking and reporting system. However, given the time that has elapsed since the proposal, we are revising the proposal to require the first triennial emissions inventory to cover calendar year 2023, with the first inventory due on April 15, 2024, and thereafter, every three years, the inventory will be due on April 15th of the year following the inventory year. This is in line with the UDEQ's triennial emissions inventory collection, and the schedule for the NEI. This revised schedule will also allow additional time for operators to set up an appropriate emissions tracking and reporting system, according to the instructions we will make available on our web site for the rule once it is finalized.

C. Streamlined Construction Authorization

In the proposed FIP we contemplated moving the authority for streamlined construction authorization mechanism of true minor oil and natural gas sources on the Indian country portions of the U&O Reservation that are part of the Uinta Basin Ozone Nonattainment Area in the National O&NG FIP (through 40 CFR part 49, Subpart K) to this FIP, so as to consolidate air quality requirements for oil and natural gas sources in the Indian country portions of the U&O Reservation that are part of the Uinta Basin Ozone Nonattainment Area within one part of the Code of Federal Regulations, which we believed could provide a more efficient and user-friendly approach. However, we have decided not to finalize that approach in this FIP because, after further consideration, including consideration of public comments received, we believe that modifying the National O&NG FIP is unnecessary.

D. Applicability

In the proposed FIP, we defined some terms, such as storage tank, pneumatic pump, pneumatic controller, and fugitive emissions component, in a way that were different from the definitions of equivalent equipment and activities in NSPS OOOO and OOOOa. The proposed FIP was designed in part for consistency with NSPS OOOO and OOOOa and the Oil and Gas CTG, and for consistency with the Utah Oil and Gas Rules (which were also designed for consistency with NSPS OOOO and OOOOa). After considering public comments received, and for ease of implementation and compliance, we have revised the proposed definitions, and are finalizing definitions that are consistent with those in NSPS OOOO and OOOOa.

Another difference with NSPS OOOO and OOOOa and the Oil and Gas CTG that was identified in comments on the proposed FIP is in the method used to calculate VOC emissions from the collection of all storage vessels to determine applicability of the control requirements

for storage vessels, glycol dehydrators and pneumatic pumps in 40 CFR 49.4173 through 49.4177. We proposed that VOC emissions from the collection of all storage vessels should be calculated based on uncontrolled actual emissions. To provide consistency with NSPS OOOO and OOOOa and the Oil and Gas CTG, we are finalizing requirements that VOC emissions from the collection of all storage vessels be calculated based on potential emissions, which may account for enforceable control requirements already applicable to certain storage vessels. The Utah Oil and Gas Rules require all storage vessels located at a well site that are in operation as of January 1, 2018, with a site-wide throughput of 8,000 bbl or greater of crude oil or 2,000 bbl or greater of condensate per year on a rolling 12-month basis, to control emissions unless an exemption applies that total VOC emissions from the collection of all storage vessels are demonstrated to be less than 4 tpy of uncontrolled actual emissions (defined as actual emissions or the potential to emit without considering controls) on a rolling 12-month basis. Emissions to meet the exemption must be calculated using direct site-specific sampling data and any software program or calculation methodology in use by industry that is based on AP-42 Chapter 7. A separate provision allows controls to be removed after a minimum of one year of operation if source-wide throughput is less than 8,000 bbl crude oil or 2,000 bbl condensate on a rolling 12-month basis or uncontrolled actual VOC emissions are demonstrated to be less than 4 tons per year. For sources that operate only storage vessels and not glycol dehydrators or pneumatic pumps, the proposed 8,000 bbl of crude oil/2,000 bbl of condensate throughput applicability threshold for control of storage vessel emissions was the same as the control applicability threshold for storage vessels in the UDEQ's recently adopted Utah Oil and Gas Rules. However, based on public comments received on the proposed rule, we decided not to finalize the

production-based threshold for oil and natural gas sources with only storage vessels and no glycol dehydrators or pneumatic pumps. Several commenters expressed the view that, while they appreciated the effort to establish consistent requirements across jurisdictional boundaries, determining applicability for VOC combustion control requirements would be simpler and more straightforward if applicability was based solely on the annual facility-wide VOC emissions threshold for storage vessels, glycol dehydrators and pneumatic pumps of 4 tpy.

We noted in the preamble to the proposed U&O FIP that in January 2019, the Utah Air Quality Board approved an additional rule in the Utah Administrative Code Chapter R307-500 Series (Oil and Gas) at R307-511 to manage associated gas from a completed oil well by either routing it to a process unit for combustion, routing it to a sales pipeline, or routing it to a VOC control device, except for emergency release situations. This rule was approved after we had drafted and evaluated the emissions reductions and costs of the provisions in the proposed U&O FIP. We noted our intent to evaluate and consider incorporating equivalent associated gas requirements in a final U&O FIP. After careful consideration of the comments received and evaluation of the data used to estimate associated gas emissions in the UBEI2017-Update used to analyze the costs and benefits of this final FIP, we have decided not to finalize requirements to control associated gas emissions in the U&O FIP, because we do not have adequate information specific to the Uinta Basin operations to accurately assess and develop cost-effective requirements.

In the proposed U&O FIP, we based the applicability of the requirement to implement a semiannual fugitive emissions monitoring program on whether the oil and natural gas source was required to control facility-wide emissions from the collection of all storage vessels, glycol

dehydrators, and pneumatic pumps. After considering public comments on the proposed FIP, we have revised the proposed fugitive emissions monitoring applicability, and in the final rule are requiring semiannual fugitive emissions monitoring for each owner or operator of an oil and natural gas source where either of the following is true: (1) As proposed, the collection of fugitive emissions components is located at an oil and natural gas source that is required to control VOC emissions according to 40 CFR 49.4173 through 49.4177 of this FIP (i.e., the source-wide potential for VOC emissions from the collection of all storage vessels, glycol dehydrators, and pneumatic pumps is equal to or greater than 4 tpy, as determined according to 40 CFR 49.4173(a)(1)); or (2) As revised, the collection of fugitive emissions components is located at a well site, as defined in 40 CFR 60.5430a, that at any time has total production greater than 15 barrels of oil equivalent (boe) per day based on a rolling 12-month average.

The Uinta Basin generally encompasses an area of over 6,800 square miles with hundreds of miles of dirt roads connecting over 10,000 oil and natural gas wells. According to the Updated 2017 Uinta Basin Emissions Inventory (UBEI2017-Update)¹⁰⁷, the average number of wells per well pad is 1.5. The inventory shows that fugitive emissions are the second highest VOC emissions source on Indian country lands within the U&O Reservation, at about 15,600 tpy. Studies have been conducted specific to the Uinta Basin that investigated the sources of VOC emissions from oil and natural gas production operations. Certain high emitting sources, or

¹⁰⁷ UBEI2017-Update. The inventory and supporting analysis can be viewed in the docket for this rulemaking, Microsoft Excel spreadsheet titled, "UO FIP cost and emissions analysis.xlsx" (Docket ID No. EPA-R08-OAR-2015-0709).

“super-emitters,” are likely due to abnormal process conditions.¹⁰⁸ Examples of abnormal process conditions, which could be persistent or episodic, include: failures of storage vessel control systems, malfunctions upstream of the point of emissions (for example, stuck separator dump valve resulting in produced gas venting from storage vessels), design failures (for example, vortexing or gas entrainment during separator liquid dumps) and equipment or process issues (for example, over-pressured separators, malfunctioning or improperly operated dehydrators or compressors).¹⁰⁹ A July 2017 study by Utah State University, TriCounty Health Department, and the UDEQ surveyed 400 oil and natural gas well pads using an IR camera for fugitive emissions detection at storage vessels and found that emissions plumes were detected at 37 percent of well pads where the storage vessels were controlled. A November 2018 Utah State University study employed a hybrid of both ground based and aerial IR detection methods. The study found that the majority of observed fugitive emissions plumes originated from storage vessels (over 75 percent) and that facilities where emissions were detected were primarily younger, high production facilities with more liquid storage vessels, and, in the case of the aerial observations only, that primarily produce oil. The study found that emissions that were more likely to be characterized as large were observed at well pads with controlled storage vessels.

The emissions were observed upstream of the control device, from thief hatches, vents and

¹⁰⁸ Zavala-Araiza, D., Alvarez, R. A., Lyon, D. R., Allen, D. T., Marchese, A. J., Zimmerle, D. J., & Hamburg, S. P.; “Super-emitters in Natural Gas Infrastructure are Caused by Abnormal Process Conditions,” *Nature Communications* 8, 14012 (2017).

“Storage Tank Emissions Pilot Project (STEPP): Fugitive Organic Compound Emissions from Liquid Storage Tanks in the Uinta Basin,” Final Report to The Utah State Legislature (USU, TriCounty Health Dept, UDEQ, July 17, 2017) available in the docket for this rulemaking (Docket ID No. EPA-R08-OAR-2015-0709).

“Hydrocarbon Emission Detection Survey of Uinta Basin Oil and Gas Wells”. November 2018. Bingham Research Center, Utah State University, available in the docket for this rulemaking (Docket ID No. EPA-R08-OAR-2015-0709).

¹⁰⁹ The UBEI2017-Update has not accounted for the phenomenon of “super-emitters.”

pipings on the tanks. The results of these two studies strongly suggest that a significant quantity of emissions from controlled storage vessels were not reaching the designated control device. Requiring owners and operators of oil and natural gas sources that are required to control storage vessel, dehydrator and pneumatic pump emissions to implement a LDAR program will help reduce fugitive emissions from well sites with controlled storage vessels. We acknowledge that the definition of fugitive emissions component in the final U&O FIP excludes valves, connectors, pressure relief devices, open-ended lines, flanges, covers, closed-vent systems, thief hatches, and other openings associated with storage vessels or closed-vent systems subject to the control requirements of 40 CFR 49.4173 and 49.4176. Those activities are subject to specific integrity monitoring requirements in 40 CFR 49.4182, discussed later in this section, to ensure that 100 percent of the emissions are routed either to a process or an emissions control device. However, the LDAR requirements of final 40 CFR 49.4177 do apply to components associated with storage vessels and closed-vent systems that are not subject to the requirements of 40 CFR 49.4173 and 49.4176. We expect that the combination of the LDAR requirements of final 40 CFR 49.4177 and the integrity monitoring requirements of final 40 CFR 49.4182 will effectively reduce VOC emissions from equipment leaks at oil and gas sources with controlled storage vessels.

We determined that to maximize VOC emissions reductions and the resulting expected improvements in air quality on the U&O Reservation and surrounding areas, finalizing a balance between the LDAR applicability thresholds of the Utah Oil and Gas Rules and the CTG is appropriate, as it will result in emissions reductions at more existing sources than if we finalized the proposed applicability threshold. It will not impose the requirement to implement an LDAR

program at every oil and natural gas source on the Indian country lands within the U&O Reservation, which could potentially create a competitive disadvantage to operating on the Reservation, resulting in potentially negative economic impacts for the Ute Indian Tribe and other mineral owners. We acknowledge that NSPS OOOOa currently contains two different LDAR inspection standards for well sites and gathering and boosting compressor stations controlling methane emissions and those controlling VOC emissions and that the EPA has published a proposed national rule to reduce methane and other pollutants from existing, new, and modified sources in the oil and natural gas industry that seeks to align those standards to require semiannual LDAR inspections for all well sites (e.g., remove the exemption for low-production wells) and quarterly LDAR inspections for all compressor stations.¹¹⁰ We also acknowledge that the rule proposes to establish new methane and VOC fugitive emissions monitoring standards for new and modified sources and similar methane fugitive emissions monitoring guidelines for existing sources.

We expect that the final LDAR requirements of this FIP will result in meaningful reductions in VOC emissions and ground-level ozone production, significantly furthering our main objective for this U&O FIP of improving air quality. We determined that, particularly for existing sources, in order to meet our goal to provide consistent requirements across the Uinta

¹¹⁰ See 85 FR 63110. Nov. 15, 2021. *Proposed Rule. Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*, available at <https://www.regulations.gov> (Document ID #EPA-HQ-OAR-2021-0317-0001), accessed Mar. 14, 2022. The regulatory inconsistencies stem from the recent joint resolution under the Congressional Review Act that disapproved the 2020 Policy Rule. That rule, which was issued by the previous Administration, had eliminated important requirements to reduce methane and other air pollution from new and modified sources in the oil and natural gas source category. However, the joint resolution did not address a separate 2020 rule known as the “Technical Rule,” which remains in place today. The EPA is proposing to repeal amendments in the Technical Rule that exempted low-production well sites from monitoring fugitive emission; and changed VOC monitoring requirements at gathering and boosting compressor stations from quarterly to semi-annually.

Basin, the LDAR inspection frequency requirements in this U&O FIP should provide a measure of consistency with the LDAR inspection frequency requirements in the Utah Oil and Gas Rules, as those rules apply prospectively to all oil and natural gas well sites on non-reservation Indian country lands in the Uinta Basin that are not already subject to site-specific approval orders or the GAO. If the sources in the Uinta Basin that are regulated by the UDEQ are also subject to the LDAR requirements of the NSPS OOOOa, the NSPS requirements supersede the UDEQ requirements if the UDEQ requirements are less stringent. Similarly, if the sources in the Uinta Basin that are regulated by the EPA on Indian country lands within the U&O Reservation are subject to the LDAR requirements of NSPS OOOOa, those sources are exempt from complying with the LDAR requirements in this U&O FIP. We may revisit this final action in the future based on any final action we take under CAA Section 111 with the Oil and Natural Gas Sector Climate Review rulemaking to address application of LDAR at sources covered by this FIP in a manner similar to the final national rule's provisions for sources that it covers. Also, if the Uinta Basin Ozone Nonattainment Area's Marginal classification is reclassified ("bumped up") to a Moderate nonattainment classification, or if air quality concerns otherwise warrant, we may conclude that further rulemaking is necessary or appropriate.

We proposed general language in the fugitive emissions provisions allowing for the use of methods of leak detection other than EPA Reference Method 21 or optical gas imaging instrument to demonstrate compliance with the fugitive emissions monitoring requirements, provided the method is approved by the EPA. We solicited information in the proposed U&O FIP on alternative methods of leak detection (e.g., aerial) that could potentially achieve meaningful and more cost-effective reductions in fugitive VOC emissions that contribute to

ozone formation, and whether any of these advanced monitoring technologies would be effective in the Uinta Basin and should be approvable as an alternative leak detection compliance method under a final U&O FIP. We also solicited input on the criteria that the EPA should consider in approving alternative leak detection compliance methods, including appropriate accuracy and quality assurance standards that alternative methods would need to meet to demonstrate equivalency to onsite optical gas imaging instruments or onsite EPA Reference Method 21. We noted that specific descriptions of the approach, frequency of monitoring, detection thresholds, limiting factors in detection, costs and availability for alternative leak detection methods would be helpful. We did not receive any new information on the costs and effectiveness of alternative leak detection methods during the public comment period. However, we did receive suggestions for criteria we should consider in approving alternative leak detection compliance methods to demonstrate equivalency to EPA Reference Method 21 or optical gas imaging. Based on those comments, we have added language to the final FIP specifying that to be approved by the EPA, a demonstration that the alternative method achieves emissions reductions that equal or exceed those that would result from the application of either Method 21 or optical gas imaging instruments must be made and any proposed approval by the EPA will be subject to public notice and comment.

Studies specific to the Uinta Basin have investigated the viability of leak detection method alternatives to conventional onsite instrument detection, including detection methods from an aerial platform. One study¹¹¹ employed a helicopter-based infrared camera at an

¹¹¹“Aerial Surveys of Elevated Hydrocarbon Emissions from Oil and Gas Production Sites,” *Environmental Science and Technology*, 2016, 50 (9), pp 4877-4886, publication date Apr. 5, 2016, available at <http://pubs.acs.org/doi/abs/10.1021/acs.est.6b00705>, accessed Mar. 14, 2022.

elevation of approximately 50 meters above ground level to survey more than 8,000 oil and natural gas well pads in seven United States basins. The goal of this aerial survey was to assess the prevalence and distribution of hydrocarbon sources whose fugitive emissions were high enough to be labeled high-emitters. At each site with detected emissions, the survey team reported the site's location and the number and equipment type of each observed emission source. Survey results indicated that high-emitting sites constituted four percent of all the sites surveyed across the seven basins examined. In the Uinta Basin, 1,389 well pad facilities were flown over, and high emissions were observed at 6.6 percent of those well pads. Another previously discussed study¹¹² that employed a hybrid of both ground-based and aerial IR detection methods found that observations using an IR camera from a helicopter in winter were hampered by the cold land temperatures of the background against which the plumes would be observed. The ground-based part of this study, as previously discussed, showed a fairly high prevalence of observed emissions from controlled storage vessels.

We are finalizing the proposed provisions allowing operators to use alternative methods of leak detection, other than EPA Reference Method 21 or optical gas imaging instruments, to demonstrate compliance with the fugitive emissions monitoring requirements, provided the method is approved by the EPA. We added language specifying that to be approved by the EPA, a demonstration that the alternative method achieves emissions reductions that equal or exceed those that would result from the application of either Method 21 or optical gas imaging instruments must be made and any proposed approval by the EPA will be subject to public notice

¹¹² "Hydrocarbon Emission Detection Survey of Uinta Basin Oil and Gas Wells". Nov. 2018. Bingham Research Center, Utah State University, available at available in the docket for this rulemaking (Docket ID No. EPA-R08-OAR-2015-0709).

and comment. The total fugitive VOC emissions reduced does not account for emissions due to abnormal process operations, which was discussed earlier. Recognizing that technology used to detect, measure, and mitigate emissions is rapidly developing, on July 18, 2016, the EPA issued a request for information, (RFI)¹¹³ inviting all parties to provide information on innovative technologies to accurately detect, measure, and mitigate emissions from the oil and natural gas industry. The intent of this notice was to solicit data supporting alternative approaches to limit emissions from this industry.

E. Monitoring and Testing

In response to several comments, and to clarify one provision, we made some changes to the proposed monitoring requirements for covers and closed vent systems and VOC emissions control devices to provide more consistency with NSPS OOOO and OOOOa. The proposed requirements for inspecting covers and closed vent systems were different than NSPS OOOOa in that they did not allow the option to demonstrate compliance by conducting optical gas imaging inspections on the same schedule as fugitive emissions inspections. We have added that option to the final FIP. Additionally, rather than incorporate by reference the inspection requirements of NSPS OOOOa at 40 CFR 60.5416a(c), we incorporated streamlined inspection requirements for covers and closed vent systems into a common set of provisions, because the separate provisions in NSPS OOOOa are essentially the same. Although the preamble to the proposed rule explained that it would require that facilities “ensure that each enclosed combustor or utility flare is... operated with no visible smoke emissions,” in the proposed regulatory text we inadvertently

¹¹³ See 81 FR 46670 (July 18, 2016).

mentioned only enclosed combustors, not flares, in the provision requiring owners and operators to verify on a monthly basis that there are no detectable smoke emissions. To make the regulatory text of the FIP consistent with the intent explained in the proposed rule as to flares, and also in response to comments that the FIP should provide more consistency with NSPS OOOO and OOOOa, the monitoring requirements being finalized today, consistent with NSPS OOOO and OOOOa, require Method 22 monitoring for all VOC control devices. We also streamlined the requirements to perform monthly inspections of the covers closed-vent systems and monthly inspections of the VOC emissions control devices, each separated by at least 15 days between each inspection, to provide operators the flexibility to schedule inspections in the same visit.

F. Recordkeeping and Reporting

In response to several comments, we also made some changes to the proposed recordkeeping requirements to provide more consistency with the records that the UDEQ requires of oil and natural gas sources, as well as with the records required by NSPS OOOO and OOOOa. Regarding annual reports, we made changes to clarify in the final FIP the April 1st due date of each annual report, and that the reporting period for the initial annual report will be the period beginning with the effective date of the final rule through the end of that calendar year. Additionally, in response to public comments that annual reporting should be limited to targeted records that most efficiently indicate the degree of compliance with the U&O FIP, we have specified a subset of required records that must be summarized in the annual report related to each enclosed combustor or flare, each cover and closed-vent system, fugitive emissions monitoring and each high-bleed pneumatic controller, including deviations from rule

requirements and corrective actions taken to address deviations.

VI. Summary of Significant Comments and Responses

This section summarizes the significant public comments on the proposed FIP and our response to those comments as they related to the specific requirements being finalized today in this U&O FIP. More detailed summaries of the comments and our responses are available in the docket for this rulemaking.¹¹⁴

A. Major Comments Concerning Effective Date and Compliance Deadline

Comment: Industry commenters asserted that since the EPA has determined that the rule is an economically significant regulatory action subject to Office of Management and Budget Review under E.O. 12866, the rule must also be a “major rule” under the Congressional Review Act, which mandates that it may become effective no earlier than 60 days after it is published in the Federal Register.

Response: We agree and have finalized an effective date 60 days after publication in the Federal Register.

Comment: Industry commenters claimed that air quality studies in the Uinta Basin and available air quality data support that emissions reductions needed to attain the NAAQS only need to occur in the winter, rather than year-round as the EPA proposed, and claimed it was unreasonable and arbitrary that the EPA did not evaluate a seasonal regulatory option.

Response: We disagree that it was unreasonable or arbitrary not to evaluate a seasonal

¹¹⁴ Response to Public Comments. Proposed Federal Implementation Plan: Managing Emissions from Oil and Natural Gas Sources on Indian Country Lands within the Uintah and Ouray Indian Reservation in Utah. May 2021, available in the docket for this rulemaking (Docket ID No. EPA-R08-OAR-2015-0709).